



DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

eBond Test Modifications and Clarifications: Continuous Bond Executed Prior to or Outside the eBond Test May Be Converted to an eBond by the Surety and Principal, Termination of an eBond, Identification of Principal on an eBond by Filing Identification Number, and Email Address Correction.

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: General notice.

SUMMARY: This notice announces modifications and clarifications to U.S. Customs and Border Protection's (CBP's) voluntary National Customs Automation Program eBond test, scheduled to deploy January 3, 2015. This test provides for the transmission in Automated Commercial Environment of electronic bond contracts (eBonds) between principals and sureties, with CBP as third-party beneficiary, for the purpose of linking those eBonds to the transactions they are intended to secure. The modifications and clarifications to CBP's eBond test concern: the method by which continuous bonds executed prior to or outside of the eBond test may be converted to eBonds by the surety and principal; a surety or principal's ability to terminate an eBond; the identification of the principal on an eBond by the filing identification number; and an email address correction.

DATES: The eBond test modifications and clarifications set forth in this notice will go into effect [INSERT DATE OF PUBLICATION IN THE **FEDERAL REGISTER**].

ADDRESSES: Comments and/or questions concerning this notice or any aspect of the test may be submitted to CBP via email to eBondTest@cbp.dhs.gov, with the subject line identifier reading "Comment/Questions on eBond test."

FOR FURTHER INFORMATION CONTACT: For policy related questions, contact Kara Welty, Chief, Debt Management Branch, Revenue Division, Office of Administration, at kara.welty@dhs.gov. For technical questions, contact John Everett, Entry Summary, Accounts, and Revenue Branch, ACE Business Office, Office of International Trade, at john.r.everett@dhs.gov.

SUPPLEMENTARY INFORMATION:

BACKGROUND

I. eBond Test

In a notice published in the **Federal Register** (79 FR 70881) on November 28, 2014, U.S. Customs and Border Protection (CBP) announced a plan to conduct a voluntary National Customs Automation Program (NCAP) eBond test. The eBond test, scheduled to deploy on January 3, 2015, provides for the transmission in Automated Commercial Environment (ACE) of electronic bond contracts (eBonds) between principals and sureties, with CBP as the third-party beneficiary, for the purpose of linking those eBonds to the transactions they are intended to secure (eBond system). The notice invited public comment concerning the test, described the eligibility, procedural and documentation requirements for voluntary participation in the test, and outlined the

development and evaluation methodology to be used in the test. The eBond test terms and conditions set forth in 79 FR 70881 remain in effect for the duration of the eBond test, subject to the modifications and clarifications set forth in this notice and any subsequent eBond test modifications published in the **Federal Register**.

II. Modifications and Clarifications to the eBond Test

A. Continuous Bonds Executed Prior to or Outside the eBond Test May Be Converted to eBonds by the Surety and Principal

In the eBond test notice published in 79 FR 70881 (also referred to in this notice as the “original eBond test notice”), CBP indicated that continuous bonds executed prior to January 3, 2015, will be accessible in the eBond system for administration purposes but will not be subject to eBond test rules. Instead, pre-January 3, 2015 continuous bonds will remain subject to the CBP bond regulations in 19 CFR part 113, and riders of such bonds must be submitted to CBP in the format and manner detailed in 19 CFR part 113. Similarly, after the eBond test commences on January 3, 2015, sureties and principals who choose not to participate in the eBond test will still be able to submit bonds to CBP in the format and manner detailed in 19 CFR part 113, and those bonds will be accessible in the eBond system for administration purposes.

This notice announces a modification to the eBond test to permit participating sureties/surety agents, acting on behalf of the sureties and principals, to convert pre-January 3, 2015 continuous bonds and other continuous bonds executed outside of the eBond test (collectively referred to hereinafter as “paper continuous bonds”) into eBonds subject to the rules set forth in this notice and the original eBond test notice. Under the

terms of the original eBond test notice, a participating surety or the surety's agent may, via a CBP-approved Electronic Data Interchange (EDI), transmit limited changes to the terms and conditions of an active continuous eBond that are contractually binding on the principal(s) and surety(ies). At this time, such changes include:

- (1) Transmitting an addition eBond rider (clarified below to be a User Addition eBond rider);
- (2) Transmitting a deletion eBond rider (clarified below to be a User Deletion eBond rider);
- (3) Transmitting a reconciliation eBond rider;
- (4) Terminating a reconciliation eBond rider;
- (5) Transmitting a U.S. Virgin Islands eBond rider; and
- (6) Terminating the eBond.

This notice announces a modification to the eBond test whereby a participating surety or the surety's agent may also transmit, via EDI, the same types of limited changes to the terms and conditions of an active paper continuous bond accessible in the eBond system.

In accordance with 19 U.S.C. 1623, and consistent with the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. 7001, et seq., the test participant surety/surety agent's act of transmitting to CBP, via EDI, a change to a paper continuous bond (including, but not limited to, the six types of changes described above) constitutes a binding representation to CBP that: (1) The transmitting surety/surety agent has the

authority to bind both the surety(ies) and the principal(s) to the conversion of the identified paper continuous bond to an eBond, including but not limited to the modification of the terms and conditions of the identified paper continuous bond to the terms and conditions of the eBond test; and (2) Pursuant to the transmitting surety/surety agent's authority, both the surety(ies) and the principal(s) intend to be bound by the converted eBond, including the terms and conditions for the eBond set forth in the eBond test. Furthermore, any transaction that identifies or uses the converted eBond as security constitutes the re-affirmation of the principal responsible for the transaction that it intends to be bound by the terms and conditions of the identified or used converted eBond. Once the surety(ies) and principal(s), acting through the transmitting surety/surety agent, have converted a paper continuous bond to an eBond, the eBond cannot be converted back into a paper continuous bond.

Because the elements of paper continuous bonds are similar to eBonds, but not identical, certain elements of the paper continuous bond will not be used as part of the converted eBond. These unused elements are: Broker Filer Code; Transaction Date; Port Code; Principal Name and Physical Address; Principal Signature; Principal Seal (or check box); Mailing Address Requested by the Surety, Surety Name and Physical Address; Surety Signature; Surety Seal (or check box); Principal Name, Co-Principal Name and Physical Address; Co-Principal Signature; Co-Principal Seal (or check box); Section III Names; Co-Surety Name and Physical Address; Co-Surety Signature; and Co-Surety Seal (or check box).

B. CBP Filing Identification Number as Primary eBond Identification Marker

In several places in the original eBond test notice, CBP referenced the concept of an eBond or eBond rider containing listed “names.” In that document, CBP also noted, at 79 FR 70885, that the importer identification number and surety number will be the primary eBond identification markers and CBP will not be collecting the name and address of the principal or surety on the eBond as this data will be available to CBP via other components of ACE.

In this document, CBP is clarifying the eBond test terms and conditions to reflect that the “CBP filing identification number” (see 19 CFR 24.5), and not a “name,” will be the method of identifying the principal on an eBond. Accordingly, there are several references to the use of eBond “names” that require clarification in the original eBond test notice as follows:

- At 79 FR 70883, in the section entitled, “Terms and Conditions for eBonds,” the sentence reading “[T]he principal(s) and surety(ies) agree that any charge against the eBond under any of the listed names is as though it was made by the principal(s)” is clarified by changing the term “listed names” to “listed CBP filing identification numbers.”
- At 79 FR 70885, in the section entitled “Continuous Bonds Executed Prior to eBond Test Will Be Accessible in eBond System,” the sentence reading “[T]he importer identification number and surety number will continue to be the primary identification markers used by CBP when verifying adequate bond coverage for activities that require it,” is clarified by changing the words “importer

identification number” to “CBP filing identification number” to reflect that the filing identification number is not always associated with an importer.

- At 79 FR 70884, in the section entitled, “Terms and Conditions for eBond Riders,” and subsections pertaining to “Addition” and “Deletion” eBond riders, CBP is clarifying these terms and conditions by changing the existing reference to “names” transmitted with these eBond riders to “CBP filing identification numbers” and further clarifying that these two types of eBond riders are “user” riders.

The changes are set forth below:

(1) User Addition eBond rider. The principal(s) and surety(ies) agree that the CBP filing identification numbers transmitted with this eBond rider identify unincorporated units of the identified principal or trade or business names used by the identified principal in its business, that the identified eBond covers its business, and that the identified eBond covers any act done in those names or under the CBP filing identification numbers to the same extent as though done by the identified principal. The principal(s) and surety(ies) agree that any such act shall be considered to be the act of the identified principal.

(2) User Deletion eBond rider. The principal(s) and surety(ies) agree that the CBP filing identification numbers transmitted with this eBond rider of unincorporated

units of the identified principal or trade or business names used by the identified principal in its business are deleted from the identified eBond effective upon the date of approval of this eBond rider by the appropriate CBP bond approval official.

C. Termination of an eBond

In the original eBond test notice, in the section entitled “Termination of an eBond” located at 79 FR 70885, CBP prescribed the manner by which a surety may electronically terminate an eBond on which it is obligated.

This notice announces a modification to the eBond test termination procedures whereby a surety wishing to terminate an eBond must notify the principal(s) at the same time notice of termination is sent to CBP. In addition, a surety may request that a termination go into effect sooner than the prescribed 15 calendar days from the date of the termination notice if the surety can establish, to the Director of the Revenue Division’s satisfaction, that good cause exists for terminating the eBond in lesser time. CBP is also modifying the eBond test to permit a principal to terminate an eBond on which it is obligated by means of emailing a termination request to CBP. A principal may not terminate an eBond via EDI.

The modified eBond test terms and conditions pertaining to termination of an eBond are set forth below:

Termination of an eBond by Surety/Surety Agent

A surety may, with or without the consent of the principal(s), electronically terminate an eBond on which it is obligated. The surety must notify the principal(s) of the termination at the same time the electronic notice of termination is transmitted to CBP. The effective date of the termination must be stated in the electronic notice of

termination, and must be at least 15 calendar days from the date of the electronic notice of termination, unless the surety can show to the satisfaction of the Director of the Revenue Division (RD) that good cause exists for terminating the eBond in lesser time. A request for a termination effective date that is less than 15 calendar days from the date of the electronic notice of termination must be emailed to CBP.bondquestions@dhs.gov in accordance with the email conventions described in CBP's Policies and Procedures for eBond (FRN eBond Test Participants), which is available at <http://www.cbp.gov/trade/trade-community/programs-administraton/bonds/ebond>. If an eBond is terminated, no new customs transactions may be charged against the eBond. The surety, as well as the principal, remains liable on a terminated eBond for obligations incurred prior to termination.

Termination of an eBond by a Principal

A request by a principal to terminate an eBond must be emailed to CBP.bondquestions@dhs.gov in accordance with the email conventions described in CBP's Policies and Procedures for eBond (FRN eBond Test Participants), which is available at <http://www.cbp.gov/trade/trade-community/programs-administraton/bonds/ebond>. A principal may not terminate an eBond via EDI. The termination will take effect on the date requested in the termination request if that date is at least 15 calendar days from the date of the termination request. If no termination date is requested, the termination will take effect on the 15th calendar day following the date of the termination request. If an eBond is terminated, no new customs transactions may be charged against the eBond. The surety, as well as the principal, remains liable on a terminated eBond for obligations incurred prior to termination.

D. Correction of Email Address

The original eBond Test notice contained an erroneous email address for the contact to whom technical questions may be sent. Technical questions may be emailed to John Everett, Entry Summary, Accounts, and Revenue Branch, ACE Business Office, Office of International Trade, at the following email address: john.r.everett@dhs.gov.

Dated: January 2, 2015.

Brenda Smith
Assistant Commissioner,
Office of International Trade

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